

From: nikhil dhruva tilwalli
To: Microsoft ATR
Date: 1/23/02 12:27pm
Subject: On the Proposed Final Judgement

To Whom It May Concern:

In accordance with the Tunney Act I am submitting my opinions on the proposed government settlement with Microsoft in regards to the pending anti-trust case.

I am firmly opposed to the current proposed settlement term in the Microsoft case. The terms do not fully redress the actions committed by Microsoft in the past, nor their ability to commit similar or anti-competitive actions in the future.

Many of the provisions in the current settlement will not effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. In view of Microsoft history of anti-competitive practices correcting this is vitally important.

A few issues that have been brought to my attention are:

- 1) The settlement does not take into account Windows-compatible competing operating systems. Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the settlement fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.
- 2) The settlement Fails to Prohibit Anticompetitive License Terms currently used by Microsoft. Microsoft currently uses restrictive licensing terms to keep Open Source applications from running on Windows.
- 3) The settlement Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft. Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.
- 4) The settlement Fails to Prohibit Anticompetitive Practices Towards OEMs. The current settlement allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

Please refer to <http://www.kegel.com/remedy/remedy2.html> for other issues that must be addressed for the settlement to be fair and equitable to all interested parties.

While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust settlement just for settlement's sake. I

implore you to look into these and the other issues before before pursuing closure on this matter.

Sincerely,

Nikhil Tilwalli
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